

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARIA RODRIGUEZ TRENADO, §
individually and as §
representative of the estates §
of her spouse, MARTIN RAMON §
TRENADO, deceased, and of §
her son JOSE TRENADO, deceased, §
and EMANUEL TRENADO, §
individually, and JESSICA §
TRENADO, individually, §

Plaintiffs, §

CIVIL ACTION NO. H-08-0249

vs. §

COOPER TIRE & RUBBER §
COMPANY, §

Defendant. §

VERDICT

QUESTION 1

Was there a design defect in the Cooper Sears Guardsman Trailhandler AP tire at the time it left the possession of Cooper Tire & Rubber Company that was a producing cause of the injuries in question to Maria and Jessica Trenado and the deaths of Martin and Jose Trenado?

A "design defect" is a condition of the product that renders it unreasonably dangerous as designed, taking into consideration the utility of the product and the risk involved in its use. For a design defect to exist there must have been a safer alternative design.

"Safer alternative design" means a product design other than the one actually used that in reasonable probability -

- (1) would have prevented or significantly reduced the

risk of the occurrence in question without substantially impairing the product's utility and

(2) was economically and technologically feasible at the time the product left the control of Cooper Tire & Rubber Company by the application of existing or reasonably achievable scientific knowledge.

There is a rebuttable presumption that a product manufacturer or seller is not liable for any injury to a claimant caused by some aspect of the formulation, labeling, or design of a product if the product manufacturer or seller establishes that the product's formula, labeling, or design complied with mandatory safety standards or regulations adopted and promulgated by the federal government, or an agency of the federal government, that were applicable to the product at the time of manufacture and that governed the product risk that allegedly caused harm. The plaintiffs may rebut this presumption by establishing that:

(1) the mandatory federal safety standards or regulations applicable to the product were inadequate to protect the public from unreasonable risks of injury or damage; or

(2) the manufacturer, before or after marketing the product, withheld or misrepresented information or material relevant to the federal government's or agency's determination of adequacy of the safety standards or regulations at issue in the action.

Answer "Yes" or "No."

Answer: No

QUESTION 2

Was there a manufacturing defect in the Cooper Sears Guardsman Trailhandler AP at the time it left the possession of Cooper Tire & Rubber Company that was a producing cause of the injuries in question to Maria and Jessica Trenado and the deaths of Martin and Jose Trenado?

A "manufacturing defect" means that the product deviated in its construction or quality from its specifications or planned output in a manner that renders it unreasonably dangerous. An "unreasonably dangerous" product is one that is dangerous to an extent beyond that which would be contemplated by the ordinary user of the product, with the ordinary knowledge common to the community as to the product's characteristics.

Answer "Yes" or "No."

Answer: NO

QUESTION 3

Did the negligence, if any, of any of those named below, proximately cause the injuries in question to Maria and Jessica Trenado and the deaths of Martin and Jose Trenado?

Answer "Yes" or "No" for each of the following:

- | | |
|---------------------------------|-------------------------------------------|
| a. Emanuel Trenado | <u> No </u> |
| b. Cooper Tire & Rubber Company | <u> No </u> |

If you have answered "Yes" to Questions 1, 2, and/or 3 for more than one of those named below, then answer the following question. Otherwise, do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the injuries and death. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to a person or product is not necessarily measured by the number of acts, omissions, or product defects found. The percentage attributable to a person need not be the same percentage attributed to that person in answering another question.

QUESTION 4

For each person or product found by you to have caused or have contributed to causing the injuries in question to Maria and Jessica Trenado and the deaths of Martin and Jose Trenado, find the percentage of responsibility attributable to each:

- | | | |
|-----------------------------------------------------------------------------------------------|-------|---|
| a. The Cooper Tire & Rubber Company
and the Cooper Sears Guardsman
Trailhandler AP tire | _____ | % |
| b. Emanuel Trenado | _____ | % |
| Total | 100% | |

Question 5

What sum of money, if paid now in cash, would fairly and reasonably compensate Maria Trenado for her damages, if any, resulting from the death of her husband Martin Trenado?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss. Do not include interest on any amount of damages you find.

Answer separately, in dollars and cents, for damages, if any.

Element a: Pecuniary loss

"Pecuniary loss" means the loss of the care, maintenance, support, services, advice, counsel, and reasonable contributions of a pecuniary value that Maria Trenado, in reasonable probability, would have received from Martin Trenado had he lived.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

Element b: Loss of Companionship and Society

"Loss of companionship and society" means the loss of the positive benefits flowing from the love, comfort, companionship, and society that Maria Trenado, in reasonable probability, would have received from Martin Trenado had he lived.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

Element c: Mental Anguish

"Mental anguish" means the emotional pain, torment, and suffering experienced by Maria Trenado because of the death of Martin Trenado.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

In determining damages for elements b and c, you may consider the relationship between Maria Trenado and Martin Trenado, their living arrangements, any extended absences from one another, the harmony of their family relations, and their common interests and activities.

Question 6

What sum of money, if paid now in cash, would fairly and reasonably compensate Maria Trenado for her damages, if any, resulting from the death of her son Jose Trenado?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss. Do not include interest on any amount of damages you find.

Answer separately, in dollars and cents, for damages, if any.

Element a: Pecuniary loss

"Pecuniary loss" means the loss of the care, maintenance, support, services, advice, counsel, and reasonable contributions of a pecuniary value that Maria Trenado, in reasonable probability, would have received from Jose Trenado had he lived.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

Element b: Loss of Companionship and Society

"Loss of companionship and society" means the loss of the positive benefits flowing from the love, comfort, companionship, and society that Maria Trenado, in reasonable probability, would have received from Jose Trenado had he lived.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

Element c: Mental Anguish

"Mental anguish" means the emotional pain, torment, and suffering experienced by Maria Trenado because of the death of Jose Trenado.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

In determining damages for elements b and c, you may consider the relationship between Maria Trenado and Jose Trenado, their living arrangements, any extended absences from one another, the harmony of their family relations, and their common interests and activities.

Question 7

What sum of money, if paid now in cash, would fairly and reasonably compensate Maria Trenado for her injuries, if any, resulting from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss, if any. Do not include interest on any amount of damages you find.

Answer separately in dollars and cents, for damages, if any, for injuries resulting from the occurrence:

a. Physical pain and mental anguish
in the past.

b. Physical pain and mental anguish that
in reasonable probability Maria Trenado
will suffer in the future.

Question 8

What sum of money, if paid now in cash, would fairly and reasonably compensate Jessica Trenado for her injuries, if any, resulting from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss, if any. Do not include interest on any amount of damages you find.

Answer separately in dollars and cents, for damages, if any, for injuries resulting from the occurrence:

a. Physical pain and mental anguish in the past.

b. Physical pain and mental anguish that in reasonable probability Jessica Trenado will suffer in the future.

Physical impairment

Any physical impairment must produce a substantial and distinct loss. It must extend beyond any pain, suffering, mental anguish, lost wages, or diminished earning capacity. A person should not be compensated more than once for the same elements of loss or injury.

c. Physical impairment sustained in the past.

- d. Physical impairment that in reasonable probability Jessica Trenado will sustain in the future
-

Question 9

What sum of money, if paid now in cash, would fairly and reasonably compensate Jessica Trenado for her damages, if any, resulting from the death of Martin Trenado?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss. Do not include interest on any amount of damages you find.

Answer separately, in dollars and cents, for damages, if any.

Element a: Pecuniary loss

"Pecuniary loss" means the loss of the care, maintenance, support, services, advice, counsel, and reasonable contributions of a pecuniary value that Jessica Trenado, in reasonable probability, would have received from Martin Trenado had he lived.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

Element b: Loss of Companionship and Society

"Loss of companionship and society" means the loss of the positive benefits flowing from the love, comfort, companionship, and society that Jessica Trenado, in reasonable probability, would have received from Martin Trenado had he lived.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

Element c: Mental Anguish

"Mental anguish" means the emotional pain, torment, and suffering experienced by Jessica Trenado because of the death of Martin Trenado.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

In determining damages for elements b and c, you may consider the relationship between Jessica Trenado and Martin Trenado, their living arrangements, any extended absences from one another, the harmony of their family relations, and their common interests and activities.

Question 10

What sum of money, if paid now in cash, would fairly and reasonably compensate Emanuel Trenado for his damages, if any, resulting from the death of Martin Trenado?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss. Do not include interest on any amount of damages you find.

Answer separately, in dollars and cents, for damages, if any.

Element a: Pecuniary loss

"Pecuniary loss" means the loss of the care, maintenance, support, services, advice, counsel, and reasonable contributions of a pecuniary value that Emanuel Trenado, in reasonable probability, would have received from Martin Trenado had he lived.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

Element b: Loss of Companionship and Society

"Loss of companionship and society" means the loss of the positive benefits flowing from the love, comfort, companionship, and society that Emanuel Trenado, in reasonable probability, would have received from Martin Trenado had he lived.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

Element c: Mental Anguish

"Mental anguish" means the emotional pain, torment, and suffering experienced by Emanuel Trenado because of the death of Martin Trenado.

sustained in the past: _____

that, in reasonable probability,
will be sustained in the future: _____

In determining damages for elements b and c, you may consider the relationship between Emanuel Trenado and Martin Trenado, their living arrangements, any extended absences from one another, the harmony of their family relations, and their common interests and activities.

Question 11

What sum of money would have fairly and reasonably compensated Martin Trenado for pain and mental anguish?

"Pain and mental anguish" means the conscious physical pain and emotional pain, torment, and suffering experienced by Martin Trenado before his death as a result of the occurrence in question.

Answer in dollars and cents for damages, if any.

Answer: _____

Answer the following question regarding Cooper Tire & Rubber Company only if you unanimously answered "Yes" to Questions 1, 2, or 3. Otherwise, do not answer the following question.

Question 12

Do you find by clear and convincing evidence that the injuries to Maria and Jessica Trenado and the deaths of Martin and Jose Trenado resulted from gross negligence attributable to Cooper Tire & Rubber Company?

"Clear and convincing evidence" means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.

"Gross negligence" means an act or omission by a vice-principal of Cooper Tire & Rubber Company,

- (a) which when viewed objectively from the standpoint of the vice-principal of Cooper Tire & Rubber Company at the time of its occurrence involves an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and
- (b) of which a vice-principal of Cooper Tire & Rubber Company has actual, subjective awareness of the risk involved, but nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others.

The term "vice-principal" means

- (a) A corporate officer;
- (b) A person who has authority to employ, direct, and discharge an employee of Cooper Tire & Rubber Company; or
- (c) A person to whom Cooper Tire & Rubber Company has confided the management of the whole or a department or division of the business of Cooper Tire & Rubber Company.

Answer "Yes" or "No."

Answer: _____

Sept 1, 2010

Date

Foreperson